

§ 35.172

it shall process the complaint according to the procedures established by this subpart.

(b) *Employment complaints.* (1) If a complaint alleges employment discrimination subject to title I of the Act, and the agency has section 504 jurisdiction, the agency shall follow the procedures issued by the Department of Justice and the Equal Employment Opportunity Commission under section 107(b) of the Act.

(2) If a complaint alleges employment discrimination subject to title I of the Act, and the designated agency does not have section 504 jurisdiction, the agency shall refer the complaint to the Equal Employment Opportunity Commission for processing under title I of the Act.

(3) Complaints alleging employment discrimination subject to this part, but not to title I of the Act shall be processed in accordance with the procedures established by this subpart.

(c) *Complete complaints.* (1) A designated agency shall accept all complete complaints under this section and shall promptly notify the complainant and the public entity of the receipt and acceptance of the complaint.

(2) If the designated agency receives a complaint that is not complete, it shall notify the complainant and specify the additional information that is needed to make the complaint a complete complaint. If the complainant fails to complete the complaint, the designated agency shall close the complaint without prejudice.

[Order No. 1512-91, 56 FR 35716, July 26, 1991, as amended by AG Order No. 3180-2010, 75 FR 56184, Sept. 15, 2010]

§ 35.172 Investigations and compliance reviews.

(a) The designated agency shall investigate complaints for which it is responsible under § 35.171.

(b) The designated agency may conduct compliance reviews of public entities in order to ascertain whether there has been a failure to comply with the nondiscrimination requirements of this part.

(c) Where appropriate, the designated agency shall attempt informal resolution of any matter being investigated under this section, and, if resolution is

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not achieved and a violation is found, issue to the public entity and the complainant, if any, a Letter of Findings that shall include—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found (including compensatory damages where appropriate); and

(3) Notice of the rights and procedures available under paragraph (d) of this section and §§ 35.173 and 35.174.

(d) At any time, the complainant may file a private suit pursuant to section 203 of the Act, 42 U.S.C. 12133, whether or not the designated agency finds a violation.

[AG Order No. 3180-2010, 75 FR 56184, Sept. 15, 2010]

§ 35.173 Voluntary compliance agreements.

(a) When the designated agency issues a noncompliance Letter of Findings, the designated agency shall—

(1) Notify the Assistant Attorney General by forwarding a copy of the Letter of Findings to the Assistant Attorney General; and

(2) Initiate negotiations with the public entity to secure compliance by voluntary means.

(b) Where the designated agency is able to secure voluntary compliance, the voluntary compliance agreement shall—

(1) Be in writing and signed by the parties;

(2) Address each cited violation;

(3) Specify the corrective or remedial action to be taken, within a stated period of time, to come into compliance;

(4) Provide assurance that discrimination will not recur; and

(5) Provide for enforcement by the Attorney General.

§ 35.174 Referral.

If the public entity declines to enter into voluntary compliance negotiations or if negotiations are unsuccessful, the designated agency shall refer the matter to the Attorney General with a recommendation for appropriate action.